

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS**

FOR LIFE LINK III

In the Matter of
Life Link III
v.
Richard C. Seng

**FINDINGS OF FACT,
CONCLUSIONS AND
ORDER**

Administrative Law Judge Steve M. Mihalchick conducted a telephone hearing in this contested case proceeding beginning at 10:00 a.m. on April 15, 2010. Life Link III was represented by Frederick E. Hess, its Patient Billing Collector, and Bob Sannerud, its Chief Financial Officer. Richard C. Seng did not appear in person or by counsel, nor did he contact the Administrative Law Judge to request a continuance of this matter.

The record in this matter closed on April 27, 2010, when the Administrative Law Judge received additional evidence from Life Link III supporting its authority to participate in the Revenue Recapture Program of the Department of Revenue. The record contains the Notice and Order for Hearing and attachments of April 12, 2010, a letter of April 12, 2010, from Frederick Hess to Mr. Seng with additional documentation, and the email of April 27, 2010, referred to above.

NOTICE

This Order is a final decision. A party may seek judicial review of these Findings of Fact and Conclusions and this Order in the Minnesota Court of Appeals in accordance with the provisions of Minnesota Statutes, Sections 14.63 through 14.68. Any appeal must be filed with the Minnesota Court of Appeals and served upon the opposing party within 30 days of the receipt of this Order.

STATEMENT OF THE ISSUES

Whether Mr. Seng incurred a debt to Life Link III for ambulance transportation service that it provided to him that remains unpaid; and

Whether Life Link III has satisfied the legal prerequisites in the Revenue Recapture Act¹ for revenue recapture from Mr. Seng of the unpaid charges for ambulance transportation.

Based upon the record in this matter, the Administrative Law Judge makes the following:

¹ Minnesota Statutes, Sections 270A.01—270A.12.

FINDINGS OF FACT

1. Life Link III is a nonprofit consortium of nine hospitals and clinics in Minnesota and western Wisconsin that provides ground and air medical transportation. Its business office is at 3010 Broadway St NE, Minneapolis, MN 55413-1768.²

2. Subject to certain restrictions, the Revenue Recapture Act allows the Department of Revenue to set off a debt owed by a debtor to a "claimant agency" from a tax refund due to the debtor and pay it over to the claimant agency.³

3. A "claimant agency" includes, among other organizations, any state agency, any county, any city (including a city that is presenting a claim for a municipal hospital or a municipal ambulance service), a hospital district, and a private nonprofit hospital that leases its building from the county or city in which it is located. In addition, a county may act as a claimant agency on behalf of an ambulance service that operates at least in part within the county.⁴ This final provision has been interpreted by the Department of Revenue to also authorize ambulance services themselves to act as claimant agencies.⁵ Specifically, Life Link III has been authorized by the Department of Revenue to act as a claimant agency.⁶

4. On August 15, 2005, Life Link III transported Mr. Seng from Fairview Ridges Hospital to Hennepin County Medical Center. Mr. Seng signed Life Link III's form that day consenting to the service, consenting to payment by his insurance, and agreeing to pay all charges for services not covered by his insurance.

5. Life Link III billed Mr. Seng's insurance company, Great-West, \$1,570.26 for the services provided. Great-West allowed \$1,464.90 of the claim and deducted \$292.98 as patient copay and services not covered by its plan. On October 3, 2005, Great-West paid the remainder, \$1,171.92, to Life Link III.

6. Life Link III billed Mr. Seng for the \$292.98 copay amount monthly from October to December 2005. Life Link III then turned the account over to its collection agency who made attempts to collect the debt through May 2006. In February 2010, Life Link III entered Mr. Seng's debt into the Revenue Recapture Program. On March 17, 2010, Mr. Seng sent Life Link III a letter disputing the validity and amount of the debt. He did not specifically request a hearing.

² www.lifelinkiii.com and Life Link III letterhead.

³ Minn. Stat. § 270A.06.

⁴ Minn. Stat. § 270A.03, subd. 2.

⁵ April 27, 2010, email from Karen L. Carlson, Revenue Recapture Program Administrator.

The part about a *county may act as a claimant agency* was determined to also mean that it was fine for the ambulance service to handle their own claim. It just said a county MAY. After the ambulances that fell under chapter 144E started using revenue recapture it became clear that the counties and ambulance services could not come to terms on how they would work together with recapture. The ambulance services were still eligible to use recapture, so they just did it themselves. Though I am sure you remember all this, I just wanted to clarify it here. (Emphasis in original.)

⁶ April 27, 2010, email from Karen L. Carlson, Revenue Recapture Program Administrator.

7. On March 23, 2010, Life Link III received Mr. Seng's letter. Jackie Lackner, Patient Billing Manager for Life Link III, sent Mr. Seng an explanation of their billing and the debt. On April 8, 2010, Mr. Seng sent Ms. Lackner a letter stating:

I have received your response regarding my letter which I sent to you on 3/17/10 disputing the validity of the debt. You have until 4/16/10 to setup a hearing regarding the matter. I have included the verbiage for your reference below.

8. Thereafter, Life Link III contacted the Office of Administrative Hearings for assignment of an Administrative Law Judge. On April 12, 2010, Life Link III issued the Notice and Order for Hearing in this matter, and this contested case proceeding ensued.

9. The Notice and Order for Hearing informed Mr. Seng that if he failed to appear at the hearing, he could be found in default, the allegations set forth in the Notice and Order for Hearing could be taken as true, and the proposed action could be upheld.

10. The Notice and Order for Hearing stated that the hearing would be held April 15, 2010, at 10:00 a.m. by telephone. However, it did not state the telephone number that would be necessary for the participants to call. The Administrative Law Judge then called Mr. Hess and asked him to provide Mr. Seng with the telephone number and passcode for the telephone conference. On the afternoon of April 12, 2010, Mr. Hess sent the letter by Federal Express Overnight Letter to Mr. Seng and by email to the Administrative Law Judge.

11. The telephone numbers in Mr. Hess' letter were incorrect, which the Administrative Law Judge first noticed on April 13, 2010. The Administrative Law Judge called and spoke to Mr. Seng about 4:00 p.m. on April 13. He explained who he was and that it concerned the hearing Mr. Seng had requested on Life Link III's recapture action. Mr. Seng stated that he had received something, but had not opened it. He was told when the hearing would be, what the correct numbers were to participate in the hearing, and was given the Administrative Law Judge's cell phone number to call if he had any questions or problems. Mr. Seng did not have any questions or objections at that time.

12. Mr. Seng did not call into the telephone conference call on April 15, 2010, and never called the Administrative Law Judge.

13. Because Mr. Seng failed to appear as ordered, he is in default. Pursuant to Minnesota Rule 1400.6000, the allegations contained in the Notice and Order for Hearing are hereby taken as true and incorporated into these Findings of Fact.

14. The Administrative Law Judge adopts as Findings any Conclusions that are more appropriately described as Findings.

Based upon these Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. Minnesota law⁷ gives the Administrative Law Judge authority to conduct this proceeding, to consider the issues raised here, and to make findings and conclusions and to enter a final order.

2. Life Link III has complied with all of Minnesota law's substantive and procedural requirements for initiating and conducting this proceeding.

3. The Claimant Agency gave Mr. Seng proper and timely notice of the hearing in this matter that, however, contained an incorrect telephone number and passcode. The Administrative Law Judge corrected that error by personally speaking with Mr. Seng and giving him the correct numbers along with a cell phone number by which to call the Administrative Law Judge if necessary.

4. Life Link III is a "Claimant Agency" within the meaning of the Revenue Recapture Act.⁸ It is therefore authorized to submit a claim for a debt for collection by the Department of Revenue through revenue recapture.⁹

5. The Revenue Recapture Act defines "debt," as follows:

"Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125 and restitution. A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.¹⁰

6. The patient copay amount of \$292.98 is a legal obligation of Mr. Seng which is due and payable to Life Link III. It is a "debt" within the meaning of the Revenue Recapture Act.

7. The Administrative Law Judge adopts as Conclusions any Findings which are more appropriately described as Conclusions.

Based upon these Conclusions, the Administrative Law Judge makes the following:

ORDER

IT IS HEREBY ORDERED:

1. That Richard C. Seng's Revenue Recapture Act appeal of Life Link III's submission of a claim for setoff of a debt owed by him is DENIED;

⁷ Minn. Stat. §§ 14.50 and 270A.09

⁸ Minn. Stat. § 270A.03, subd. 2.

⁹ Minn. Stat. § 270A.04, subd. 2.

¹⁰ Minn. Stat. § 270A.03, subd. 5.

2. That the revenue recapture of the sum of \$292.98, together with any authorized recapture fee assessed by the Department of Revenue against Richard C. Seng, is **AFFIRMED**; and

3. That the Commissioner of Revenue proceed with the proposed setoff against Richard C. Seng.

Dated: May 5, 2010

s/Steve M. Mihalchick by BLN

STEVE M. MIHALCHICK
Administrative Law Judge

Reported: Digitally recorded, no transcript prepared